

**“Mah. Tax Settlement Scheme 2022
(MTS Scheme/ Amnesty Scheme 2022)**

by

CA Deepak Thakkar, Mumbai

21 April 2022

at

WIRC of ICAI

Mah Amnesty Scheme 2022 for settlement of Arrears

Objects & Reasons: To unlock huge arrears of Revenue for periods upto 30 Jun 2017;
To reduce pending litigations under State Tax Laws, then Dept can focus on GST;
To provide Relief measures to dealers adversely impacted by Covid-19 Pandemic:

- 1) Maharashtra Act # 29 of 2022 dt 28 March 2022 called as:
 - **“Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2022” (MST Amnesty Scheme, 2022)**

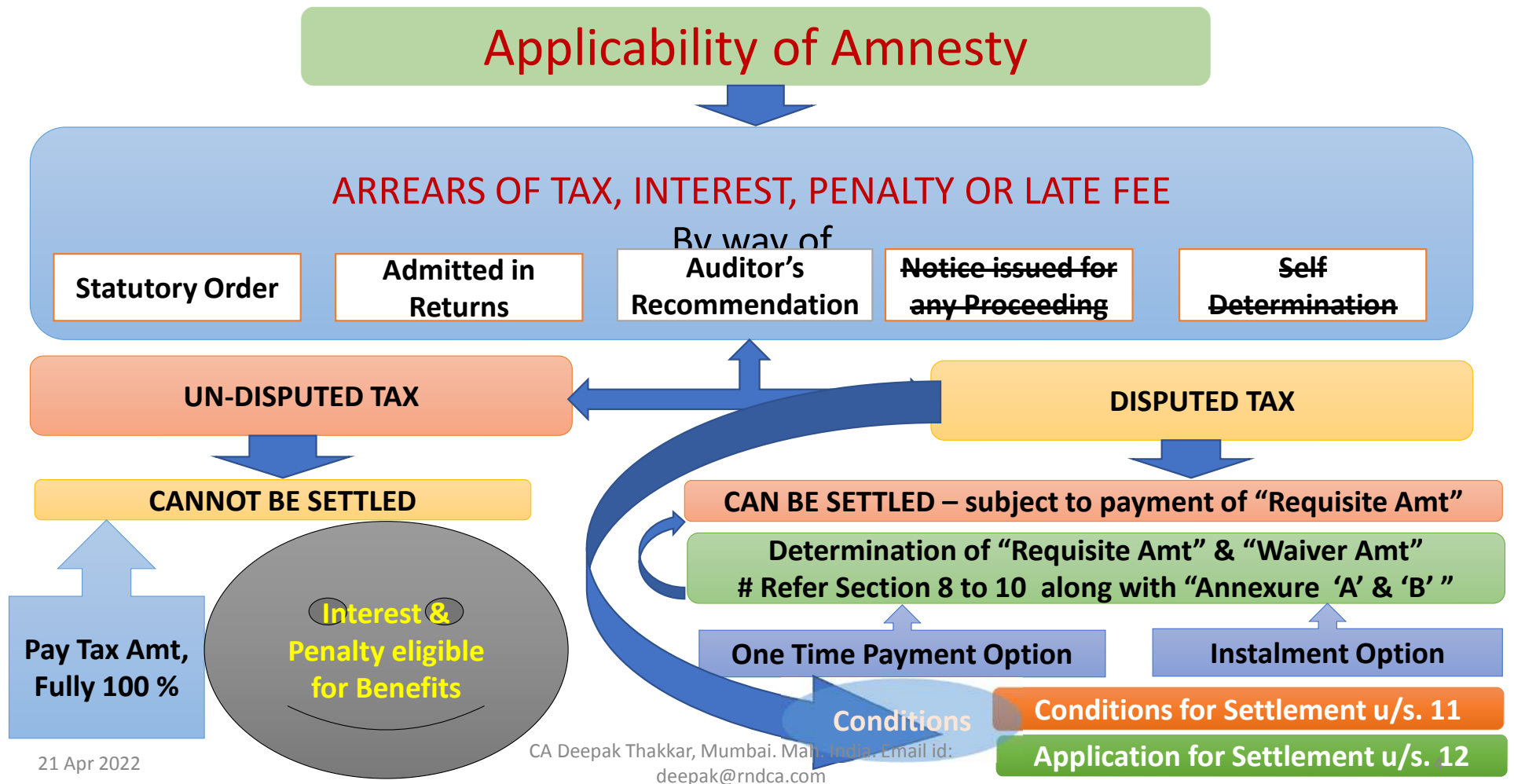
Duration of Scheme: 1 Apr 2022 to 30 Sept 2022

- 2) Mah. Notifn dt 30 March 2022: Delegating powers & duties by Commr;
- 3) Instructions for Amnesty by Mah. Commr of State Tax dt 30 Mar 2022
- 4) USER-MANUAL for Uploading Online Amnesty Applications
- 5) FAQ regarding Amnesty Appln. Filing & Uploading.TXT FILE
- 6) Trade Circular# 1T dt 20 Apr 2022 issued by Hon'ble Shri Rajeev Kumar Mital, Commr of State Tax, Mah, thru the Desk of Shri RD Adsul, JC HQ 1;

“The Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2022”

1. Important Terms/ Definitions
2. Eligibility for Settlement
3. Determination of “Arrears”, “Disputed & Undisputed Tax”, “Requisite Amount” & “Extent of Waiver” i.e. Benefits of Settlement of Arrears
4. Payment of “Requisite Amount”, Conditions for Settlement & Application
5. Case Studies
6. Conditions & Online filing, Procedural aspects:
 - Conditions for Eligibility for Settlement
 - Payment of Requisite Amount & Application submission
 - Verification by Designated Authority (DA) & Issue of Defect Notice
 - Compliance by Applicant
 - Order of Settlement for Full/ Proportionate benefit;
 - Rectification & Review of Settlement Order
7. Appeals, Re-opening and Revocation of Settlement
8. Certain Imp Issues under Amnesty

Mah. Amnesty Scheme 2022, at Glance



Acts covered under Mah. Amnesty Scheme 2022

“Relevant Act” [Sec. 2(k)] : means the following Acts, namely :-

- (i) MVAT Act (The Maharashtra Value Added Tax Act, 2002)
- (ii) CST Act (The Central Sales Tax Act, 1956);
- (iii) BST Act (The Bombay Sales Tax Act, 1959);
- (iv) WCT Act (The Mah. Sales Tax on the T.O.P. in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989);
- (v) LEASE Act (Mah. Tax on Trf of Right to use any Goods for any Purpose Act, 1985);
- (vi) ET-MV Act (The Mah. Tax on Entry of Motor Vehicles into Local Areas Act, 1987);
- (vii) ET-Goods Act (The Mah. Tax on the Entry of Goods into Local Areas Act, 2002);
- (viii) LUXURY Tax Act (The Maharashtra Tax on Luxuries Act, 1987);
- (ix) PT Act (The Mah. Tax on Professions, Trades, Callings & Employments Act, 1975);
- (x) PTS Act (The Maharashtra Purchase Tax on Sugarcane Act, 1962);
- (xi) MST Act (The Bombay Sales of Motor Spirit Taxation Act, 1958);
- [Settlement of Arrears of Tax, Int, Penalty or Late fee, for periods upto 30 June 2017](#)

“arrears” [S.2(d)]: means Outstanding amt of tax, interest, penalty or late fee as under:

(i) Payable by an assessee as per any Statutory order under the Relevant Act; or

“Statutory Order” [Sec. 2(o): Any Order passed (upto 30 Sept 2022 [Sec. 6(1)(b) & Para 3.1 of Cir); Approach to concerned Authority-Para 3.4 of Cir]

ii. Return dues admitted in the returns or revised returns, but not paid; or

[Sec. 2(m)] Amt admitted but remained un-paid, either wholly or partly, on or before 1 April 2022; “Tax dues” remained un-paid is an “Undisputed Tax”

iii. Determined & Recommended by Vat Auditor, as payable in Audit Report u/s 61 of MVAT Act and accepted partially or wholly. (Whether Recovered Notice u/s 32 or 32A of MVAT Act is issued or not); or

[Sec. 2(q)(v)] Amt Recommended as Payable by Vat Auditor in Form 704, then, Tax Liability accepted by the dealer is “Undisputed Tax”

iv. Such Arrears include Interest payable on admitted tax; (from due dt of tax payable till dt of payment as per Para 3.5 of Circular); (Rate of Int wef 1 Dec 2015: @ 1.25% for 1st mth; @ 1.5% for next 2 mths; then @ 2% p.m. beyond 3 mths:)

(i) ~~In respect of which **Notice is issued** in relation to any proceeding, **where Communication or Intimation u/s 63(7) of MVAT Act is issued to assessee (Para 3.8.2.d of Cir # 9T dt 8-3-19)**; or~~

(ii) ~~**Self Determined** by assessee, where **No notice** is issued in relation to any proceeding **(Para 3.8.2.e of Cir # 9T dt 8-3-19)**; **Assessment for other transactions/issues, can be done [Sec. 14(2)(a) of Ordinance]**~~

Adjustment of any payment made till 31 Mar 2022 under the Relevant Act to determine Arrears of Dues for settlement (Sec. 6 of MTS Act 2022):

- 1) “Any Payment made in respect of a Statutory Order, either in appeal or otherwise, till 31 March 2022, shall first be adjusted towards Un-disputed tax, then Disputed tax, thereafter towards interest and the balance towards Penalty & late fee, sequentially, Notwithstanding anything contained in the Relevant Act (e.g. Sec. 40 of MVAT Act)”;
(Refer Para 3.7 of Circular)
- 2) After adjustment as stated above, the Outstanding Arrears as on 1 Apr 2022, shall be considered for settlement under this Scheme;
- 3) Above Sequence of adjustment be followed *mutatis mutandis* for Return Dues as well as Audit Report Recommended Dues;
- 4) Any payment made till 31 Mar 2022, shall not be considered as payment of “Requisite amount” [Sec. 8(3) of MTS Act 2022]; However, It shall be adjusted as above;
- 5) **Any recovery made by Nodal Officer, or any payment made on any account, by dealer during the Scheme, shall be treated as Requisite Amt** provided application is made for settlement; **However, Part payment made in Appeal filed after 1 Apr 2022 & Not withdrawn, will not be treated as RA; (Para 9.4 of Circular);**

“Undisputed Tax” Sec. 2(q) & “Disputed Tax” Sec. 2(g)

“Disputed tax”: means other than “Un-disputed tax”: **“Un-disputed tax”**: means:

(i) **Taxes Collected** separately

(iii) **Tax Deduction claimed by dealer in Returns or any proceedings**
(Not claimed, but allowed in Order?)

(ii) **Taxes shown as payable in Return or Revised Returns**

- ‘tax’ is “Undisputed Amt”; But interest, penalty or late fees are “Disputed Amt”, eligible for settlement

(iv) **Amt forfeited** under statutory order or **excess tax collection** shown in Return / Rev. Return or VAT Audit Report

(v) **VAT Auditor’s Recommendation to pay tax as per Report & Accepted by Assessee, either wholly or partly;**

(vi) **TDS deducted on Works Contract by Contractee;**

(vii) **TCS collected u/s 31A of MVAT Act**

(viii) Tax **payable** by Profession Tax **EC holder;**

(ix) Tax **deducted** by Profession Tax **RC holder (Employer)**

(x) **Set-off Restriction u/R 52A (PSI manufactured goods) or 52B (Aerated drinks, Cigars, Mobiles), under MVAT Law (Refer Para 7.6 of Circular)**

“Disputed Tax”- Examples as per Para 7.8 of Circular

- Disallowance of Setoff
- Additional demand on account of non-production of CST Forms
- Disallowance of Claims e.g. Stock transfers, Highseas sales, Taxfree sales, exports, deemed exports, sale-in-transit, labour charges, etc
- Dispute about classification/ rate of tax
- Enhancement in taxable sales turnover
- Vat levied on service tax element in case of composition of WC
- **Dues of Interest/ penalty/ late fees = Disputed dues (Para 7.9)**

“requisite amount” [Sec.2(l)] : means

Amt Payable and Aggregate Amt Paid, during the period specified u/s 10(2)-Table-Clause (b):

- (i) Un-disputed Tax Amt: Payable Fully i.e @ 100% ; and
- (ii) Amount of Disputed tax, interest, penalty, late fee, whether levied or not, Payable @ Specified % ;

- @ Specified % as per Annexure ‘A’ & ‘B’ for All Acts as determined u/s 8, except for “Entry Tax” u/s 9, of (Amnesty Act) MST Act 2022

“Requisite amount” shall be paid using Challan prescribed under Relevant Act or in Form MTR-6 under MVAT Rules, as the case may be, before the date specified u/s 10(2)-Table-Clause (b) of this Act) [Sec. 8(2)]

Arrears of Periods upto 31 March 2005 & from 1 Apr 2005 to 30 Jun 2017

“Annexure”[S.2(a)] : means the *Annexure* appended to (Amnesty Act) MST Act 2022 i.e. Annexure ‘A’ & ‘B’;

Section 8 & 9 provides for **extent of payment** of Un-disputed tax, Disputed tax, interest, penalty or late fee & **amt of waiver** shall be as per **Annexure ‘A’ & ‘B’**:

- Annexure ‘A’: Arrears for Periods from 1 Apr 2005 to 30 Jun 2017
- Annexure ‘B’: Arrears for Periods upto 31 March 2005

Section 10 provides for **Time Limit/Due dates** for payment of Requisite Amt & Submission of Application, in case of OTP Option and Instalment Option

- **Sec. 7: Write off of certain Arrears:** any arrears determined as per any **statutory order** for the specified period, **as on the 1st April 2022**, which are **INR 10,000 or less**, per financial year under the Relevant Act **shall be written off, including post assessment interest on it;**
- **Note 1:** Concerned JC will write off, suo motu; Dealers to be intimated of Write-offs, by DA by 30 Jun 2022; (Para 6 of Circular);
- **Note 2:** No such write off, if dues are as per: Returns/ Vat Audit Report/ Statutory order passed after 1 Apr 2022; (Para 3.5 & 3.6 of Circular)

Annexure 'A' : Applicable for Arrears for periods from 1 Apr 2005 to 30 Jun 2017

Sr. No.	Particulars (Sec. 8 to 10)	One Time Payment Option (OTP Option)		Instalment Option, where Arrears > INR 50 Lakhs	
		Payable % Amt	Waiver % Amt	Payable % Amt	Waiver % Amt
1	Un-disputed tax	100 %	0 %	100 %	0%
2	Disputed tax	50 %	50 %	56 %	44 %
3	Interest Payable as per Statutory Order / Return/ Revised Self determination Not covered	15 %	85 %	15 %	85 %
4	Penalty (O/s) as per Statutory Order	5 %	95 %	5 %	95 %
5	Post Assmnt Interest & Penalty, which is leviable but not levied till Date of Appln	0 %	100 %	0 %	100 %
6	Late fees Payable in respect of Returns filed upto 31 Mar 2022	5 %	95 %	5 %	95 %

7. "Where amt of Arrears as per any Statutory Order is upto INR 10 Lakhs, Applicant may Opt for Lumpsum Payment @ 20 % instead of paying Requisite Amt as above"

Annexure 'B' : Applicable for Arrears for periods upto 31 March 2005

Sr. No.	Particulars (Sec. 8 to 10)	One Time Payment Option (OTP Option)		Instalment Option, where Arrears > INR 50 Lakhs	
		Payable % Amt	Waiver % Amt	Payable % Amt	Waiver % Amt
1	Un-disputed tax	100 %	0 %	100 %	0%
2	Disputed tax	30 %	70 %	34 %	66 %
3	Interest Payable as per Statutory Order / Return/ Revised	10 %	90 %	10 %	90 %
4	Penalty (O/s) as per Statutory Order	5 %	95 %	5 %	95 %
5	Post Assmnt Interest & Penalty, which is leviable but not levied till Date of Appln	0 %	100 %	0 %	100 %
6	Late fees was Not Leviable	NA	NA	NA	NA

Self determination Not covered

7. "Where amt of Arrears as per any Statutory Order is upto INR 10 Lakhs, Applicant may Opt for Lumpsum Payment @ 20 % instead of paying Requisite Amt as above"

Case Study 1: Arrears upto Rs. 10 Lakhs as per Statutory Order

Sr #	Details of Arrears	Arrears Rs.	Annexure A for Arrears for periods from 1 April 2005 to 30 June 2017				Annexure B for Arrears for periods upto 31 March 2005			
			One Time Payment Option				Instalment Option where Total Arrears are More than Rs. 50 Lakhs			
			Payment %	Payment Rs.	Waiver %	Waiver Rs.	Payment %	Payment Rs.	Waiver %	Waiver Rs.
1	Un-disputed Tax	1,00,000	100%	1,00,000	0%	-	100%	1,00,000	0%	-
2	Disputed Tax	7,00,000	50%	3,50,000	50%	3,50,000	30%	2,10,000	70%	4,90,000
3	Interest	1,00,000	15%	15,000	85%	85,000	10%	10,000	90%	90,000
4	Penalty	60,000	5%	3,000	95%	57,000	5%	3,000	95%	57,000
5	Late Fees	10,000	5%	500	95%	9,500	NA	-	NA	-
	Total Sum Rs.	9,70,000		4,68,500		5,01,500		3,23,000		6,37,000
OR 6	Total Arrears as per any Statutory Order is upto Rs. 10 Lakhs	9,70,000	20%	1,94,000	80%	7,76,000	20%	1,94,000	80%	7,76,000
	Total Sum Rs.	9,70,000		1,94,000		7,76,000		1,94,000		7,76,000
	Waiver Benefit %					80%				80%

Case Study 2: (Any) Arrears above Rs. 50 Lakhs (Para 7.4 of Circular)

(Refer Example 2 of Circular)			Annexure A for Arrears for periods from 1 April 2005 to 30 June 2017							
Sr #	Details of Arrears	Arrears Rs.	One Time Payment Option				Instalment Option where Total Arrears are More than Rs. 50 Lakhs			
			Payment %	Payment Rs.	Waiver %	Waiver Rs.	Payment %	Payment Rs.	Waiver %	Waiver Rs.
1	Un-disputed Tax	1,23,456	100%	1,23,456	0%	-	100%	1,23,456	0%	-
2	Disputed Tax	206,89,100	50%	103,44,550	50%	103,44,550	56%	115,85,896	44%	91,03,204
3	Interest	12,87,654	15%	1,93,148	85%	10,94,506	15%	1,93,148	85%	10,94,506
4	Penalty	3,00,000	5%	15,000	95%	2,85,000	5%	15,000	95%	2,85,000
5	Late Fees	50,000	5%	2,500	95%	47,500	5%	2,500	95%	47,500
	Total Sum Rs.	224,50,210	48%	106,78,654	52%	117,71,556	53%	119,20,000	47%	105,30,210
	Requisite Sum payable on or before 30 Sept 2022		100%	106,78,654			25%	29,80,000		
	Requisite Sum payable on or before 31 Dec 2022						25%	29,80,000		
	Requisite Sum payable on or before 31 Mar 2023						25%	29,80,000		
	Requisite Sum payable on or before 30 Jun 2023						25%	29,80,000		
	Total Sum Rs.	-		106,78,654		-		119,20,000		

Case Study 3: (Any) Arrears above Rs. 50 Lakhs (Para 7.4 of Circular)

Annexure B for Arrears for periods upto 31 March 2005

Sr #	Details of Arrears	Arrears Rs.	One Time Payment Option				Instalment Option where Total Arrears are More than Rs. 50 Lakhs			
			Payment %	Payment Rs.	Waiver %	Waiver Rs.	Payment %	Payment Rs.	Waiver %	Waiver Rs.
1	Un-disputed Tax	1,23,456	100%	1,23,456	0%	-	100%	1,23,456	0%	-
2	Disputed Tax	206,89,100	30%	62,06,730	70%	144,82,370	34%	70,34,294	66%	136,54,806
3	Interest	12,87,654	10%	1,28,765	90%	11,58,889	10%	1,28,765	90%	11,58,889
4	Penalty	3,00,000	5%	15,000	95%	2,85,000	5%	15,000	95%	2,85,000
	Total Sum Rs.	224,00,210	29%	64,73,951	71%	159,26,259	33%	73,01,515	67%	150,98,695
	Requisite Sum payable on or before 30 Sept 2022		100%	64,73,951			25%	18,25,379		
	Requisite Sum payable on or before 31 Dec 2022						25%	18,25,379		
	Requisite Sum payable on or before 31 Mar 2023						25%	18,25,379		
	Requisite Sum payable on or before 30 Jun 2023						25%	18,25,379		
	Total Sum Rs.	-		64,73,951		-		73,01,515		

Case Study 4: Arrears as per Returns filed upto 31 Mar 2022

M/s RET & Co.						
Period: FY 2016-17 ; Amnesty 2022 working as per Annexure A: (Refer Example 3 of Circular)						
Data as per Returns; Dues as on 1 May 2022; Assessment Not yet done !!						
Returns dues for FY 2016-17	MVAT INR	CST INR	Type of 'Arrears' as per Amnesty Scheme 2022	Requisite % Payable	Requisite Amt MVAT Act INR	Requisite Amt CST Act INR
Tax Collected separately/ Tax Deduction claimed	5,00,000	2,00,000	Taxes Coll/Dedn = Undisputed Tax	100%	5,00,000	2,00,000
Tax Not collected, but Payable	1,00,000		Taxes shown Payable = Undisputed Tax	100%	1,00,000	-
TDS on WC, Deducted	2,00,000		TDS Deducted = Undisputed Tax	100%	2,00,000	-
Gross Tax Liability	8,00,000	2,00,000			8,00,000	2,00,000
Setoff/ ITC claimed which is confirmed	-2,00,000				-2,00,000	
Setoff claimed but Suppliers may be ingenuine ?	-		Undisputed Tax ? / Disputed Tax ??	???		
Additional Tax on CST Declaration/ Forms which may Not be received (C, E-I, F, H, I, etc) ?	-		Undisputed Tax ? / Disputed Tax ??	???		
Net Tax Payable	6,00,000	2,00,000	Requisite Amt Payable (Tax)		6,00,000	2,00,000
Interest u/s 30(2) on Tax dues, to be calculated upto 31-3-2022 or till date of actual payment?	8,00,000	3,00,000	Requisite Amt Payable (Int to be calculated upto dt of payment- as per Para 3.5 & Example 3 of Circular)	15%	1,20,000	45,000
Total Dues	14,00,000	5,00,000				
Less: Requisite Amt Payable	-7,20,000	-2,45,000	Requisite Amt Payable Total		7,20,000	2,45,000
Balance Waiver Amt	6,80,000	2,55,000				
Waiver Benefit %	49%	51%				

Case Study 5: Arrears as per Vat Audit Report ... c/f

M/s VAR & Co.					(Refer Example 4 of Circular)			
Period: FY 2016-17 ; Amnesty 2022 working as per Annexure A: Refer Para 3.6 of Circular (Audit Report might be of dated upto 30 Sept 2022 ??)								
Data as per Ack of VAT Audit Report in Form 704 & Statement of Submission Uploaded on 31 Dec 2017 & Filed Manually on 8 Jan 2018;								
Reasons for Additional dues of Tax & Interest thereon; Data as per Table-5 of Vat Audit Report dt 31 Dec 2017	Recommended MVAT INR	Recommended CST INR	Accepted VAT INR	Accepted CST INR	Type of Arrears as per Amnesty Scheme 2022	Requisite % Payable	Requisite Amt MVAT Act INR	Requisite Amt CST Act INR
Pay additional Tax: Certain Sale Invoices were missed while filing Returns	1,00,000		1,00,000		Accepted amt = Undisputed Tax	100%	1,00,000	
Pay additional Tax on Machinery Rental income & Sale of old Motor car/ Furniture	2,00,000		-		Not Accepted = No 'Arrears' OR 'Disputed' OR to classify into "Undisputed Tax" & Disputed Tax as per "Para 3.6 of Circular" ?? DA to verify such classification !!			
Pay additional Tax due to Error in Classification/ payment of wrong rate of tax (* Not Accepted Tax = 3L - 1L = 2L)	3,00,000		1,00,000		Accepted amt = Undisputed Tax & To Classify as above?	100%	1,00,000	
Pay additional Tax due disallowance of Highseas Sales	4,00,000	5,00,000	-		Not Accepted, so No Arrears OR Classify as above ??			
Additional Tax due to Pending of CST Declaration/ Forms (C, E-I, F, H, I, etc) ** (** Not Accepted Tax = 6L - 2L = 4L)		6,00,000		2,00,000	Accepted amt = Undisputed Tax & To Classify as above?	100%		2,00,000
Reduce ITC/Setoff wrongly claimed	7,00,000		4,00,000		Accepted amt = Undisputed Tax & To Classify as above?	100%	4,00,000	-
Sub-total c/f	17,00,000	11,00,000	5,00,000	2,00,000	Arrears as per Sec. 2(d)	Total INR ???		

... b/f Case Study 5: Arrears as per Vat Audit Report

M/s VAR & Co. FY 2016-17 Annexure A: (Refer Example 4 of Circular)								
Reasons for Additional dues of Tax & Interest thereon; Data as per Table-5 of Vat Audit Report dt 31 Dec 2017	Recommended MVAT INR	Recommended CST INR	Accepted VAT INR	Accepted CST INR	Type of Arrears as per Amnesty Scheme 2022	Requisite % Payable	Requisite Amt MVAT Act INR	Requisite Amt CST Act INR
Sub-total b/f	17,00,000	11,00,000	5,00,000	2,00,000	Arrears as per Sec. 2(d)	Total INR	???	???
(Refer Sec. 6(2) of MTS Amnesty Act 2022)					Payment made before 31 Mar 2022		-1,00,000	-1,00,000
					Requisite Amt of Tax Payable^		???	
Pay interest u/s 30(2) on taxes paid late	2,00,000	1,00,000	-	1,00,000	Requisite Amt Payable (Int)	15%	30,000	15,000
Pay interest u/s 30(4) on tax due to Search, Inspection, Intimation or Audit by Dept								
Total Dues	19,00,000	12,00,000	5,00,000	3,00,000	Requisite Amt Total		???	???
Amt Paid dt 31 Dec 2017	-1,00,000	-1,00,000	-1,00,000	-1,00,000				
Balance Sum	18,00,000	11,00,000	4,00,000	2,00,000				
Interest payable from 1 Oct 2017 OR VAR dt 31 Dec 2017 till 31 Mar 2022 OR actual payment dt ?? (Refer Para 3.6 & Example 4 of Circular)					Sec 7(2) waives only Post Assmt Int; Int Payable on Admitted Tax is also Arrears; So on Requisite Amt of Tax Payable^, Int on it upto which dt ??	15%	62,400	15,600
Balance Sum	18,00,000	11,00,000						
Less: Requisite Amt Payable	???	???			Requisite Amt Payable Total		???	???
Balance Waiver Amt	???	???			If Statutory order is passed after vat audit, even then accepted recommended amt is to be classified as undisputed & pay fully – Para 3.6 of Circular			

“Requisite amount” in case of “Entry Tax” Settlement

- Sec. 9 of MTS Scheme Act 2022: For Entry Tax (ET) on Goods, other than Motor Vehicles:

Requisite amount payable is, whichever is lesser of the following:

- Amount of Entry Tax determined in the statutory order, or
- Amount of Entry Tax reduced as per Setoff Retention u/r 53/ 54 of MVAT Rules;
 - **Generally “Requisite Tax amt” is, Amt of Retention u/r 53 or Denial u/r 54 of MVAT Rules**
- If Requisite Amt paid before specified date then balance amt will be waived;
- On such Settlement, Applicant is not entitled to claim set-off of any amt, including any amt paid till 31 Mar 2022, under MVAT Rules/ BST Rules;
- Provisions of Sub-section (2), (3), (6) & (7) of Sec. 8 shall apply mutatis mutandis;
- Interest/ Penalty as per statutory order, shall be settled as per Annexure ‘A’ & ‘B’, depending on the Option as per which the Requisite amt is paid & application made;
- Statutory order under ET Act is only pre-requisite & Not under MVAT/BST (Para 8.2 of Cir);
- **Lump sum/ Instalment Option is not available for ET Settlement** (Para 8.2 of Circular);
- For Entry Tax Return dues, follow Annexure A/B u/s 8 of Scheme (Para 8.1 of Circular);
- Post assessment interest/penalty waiver is automatic, no need to compute (Para 8.4 of Cir);

Annexure 'A' : Arrears of Entry Tax for periods from 1 Apr 2005 to 30 Jun 2017

Sr. No.	Particulars of Entry Tax on Goods (Other than Motor Vehicles); Requisite Amt of Entry Tax = Lower of ET determined as per Statutory Order OR ET Reduced as per Setoff Retention u/r 53/54 (Sec. 9)	One Time Payment Option (OTP Option)			
		Payable % Amt	Waiver % Amt		
1	Requisite Amt Lower of Entry Tax	100 %	0 %		
2	Add: Further as per Statutory Order:				
3	Interest Payable as per Statutory Order / Return/ Revised	15 %	85 %		
		Self determination Not covered			
4	Penalty (O/s) as per Statutory Order	5 %	95 %		
5	Post Assmnt Interest & Penalty, which is leviable but not levied till Date of Appln	0 %	100 %		
6	Late fees Payable in respect of Returns filed upto 31 Mar 2022	5 %	95 %		

Case Study 6: for Entry Tax on Tiles, AC, Iron & Steel, etc for FY 2016-17

M/s ETG & Co.					
Period: FY 2016-17 ; Amnesty 2022 working as per Annexure A:			(Refer Example 5 of Circular)		
Data as per Statutory Order dt 31 Dec 2020					
Reasons for Additional dues of Entry Tax, Int & Penalty as per Assessment/ Appeal Order	Entry Tax Order INR	MVAT INR	Type of Arrears as per Amnesty Scheme 2022	Requisite % Payable	Requisite Amt under ET/ MVAT Act INR
Tax on Entry of Tiles, Air conditioners, Iron & Steel and Used in Construction/ Manufacturing	10,00,000				
Retention U/R 53 or 54 of MVAT Rules, on Entry Tax on Tiles, Air conditioners, Iron & Steel and Used in Construction/ Manufacturing		4,00,000	Lower of ET as per Statutory Order or ET Retention u/r 53/54 of MVAT Rules		4,00,000
Sub-total	10,00,000		Sub-total		4,00,000
(Refer Sec. 6(2) of MTS Amnesty Act 2022)			Less: Payment made before 31 Mar 2022		-1,00,000
			Requisite Amt Payable (Tax)		3,00,000
Interest u/s 30(3) on Differential Tax dues on Assessment under ET Act	8,00,000		Requisite Amt Payable (Int)	15%	1,20,000
Penalty u/s 29(3) for concealment	2,00,000		Requisite Amt Payable (Int)	5%	10,000
Interest payable from Order dt 31 Dec 2020 till dt ??			Post Assmnt Interest fully waived as per Sec. 7(2) of MTS Act 2022		
Total Dues	20,00,000		Requisite Amt Payable Total		4,30,000
Challan for which credit was not given in Assessment or Part payment in Appeal; Paid dt 28 Feb 2021	-1,00,000		Q. Lumpsum option of 20% available?		
Balance Dues	19,00,000				
Less: Requisite Amt Payable	-4,30,000				
Balance Waiver Amt	14,70,000				
Waiver Benefit %	77%				

Duration of Payment of Requisite Amt (RA) & Submission of Application for Amnesty 2022 (Table u/s 10(2) of MTS Sch Act 2022)

Sr #	Particulars	Option 1: OTP Option	Option 2: Instalment Option, where Arrears > INR 50 Lakhs
(b)	Duration in which Amt to be Paid	1 Apr 2022 to 30 Sept 2022	<p>Minimum 25% of RA to be paid during 1 Apr 2022 to 30 Sept 2022</p> <ul style="list-style-type: none"> ➤ Remaining Amt in 3 Equal Quarterly Instalments from the Date of Application; (i.e. say before 14 July 2023) ➤ All Instalments shall be paid within 9 months from the Date of Application; (i.e. say before 14 July 2023) ➤ Proviso 1: Late paid Instalment, attracts Interest @ 12% per annum; ➤ Proviso 2: If All Instalments are not paid within 9 months from the Date of Application, Proportionate Benefit as specified in Sec. 8 & 9 shall be granted;
(a)	Duration in which Application (in Form I/IA) to be submitted	1 Apr 2022 to 14 Oct 2022	Appln between: 1 Apr 2022 to 14 Oct 2022; Furnishing self-certified Challans of Instalments paid with details in Form VII;

Consequence of Short Payment of “Requisite Amt”

Section 8(6) & 8(7) of MTS Scheme Act 2022: In case of short payment:

- No rejection of application, merely for short payment of requisite amt;
- Proportionate waiver shall be calculated & allowed by Designated Authority, under the option opted by Applicant; **Give hearing opportunity to Applicant (Para 9.3, 13.4 & 14 of Circular);**
- Balance demand recoverable as per Relevant Act **(Para 14 of Cir);**

➤ **Sequence of adjustment of such payment:**

Un-disputed tax shall be paid fully, No waiver;

Hence, such amount paid shall first be adjusted towards Un-disputed tax and the remaining amt, if any, proportionately towards Disputed tax, interest, penalty and late fee;

Conditions for Settlement of arrears (Sec. 11 of MTS Scheme Act 2022)

- 1) Withdraw Appeal (Format of Appln in Form II), if any, (Filing of appeal is not a pre-condition for eligibility under Scheme- Para 3.1 of Circular), fully & un-conditionally, pending before Appellate authority/ Tribunal/ Court in respect of any statutory order;
 - Where the Penalty/Interest order passed separately, is in appeal, but it is associated with levy of tax/ disallowance of certain claims which is also in separate appeal then both appeals need to be withdrawn; Other appeal relating to only penalty not associated with any tax levy, (e.g. u/s 61 for default in vat audit) may be opted for settlement keeping intact the appeal for tax issues (Para 3.3 & 10.3 of Circular);
 - Appeal = Appeal, Reference, Writ petition, SLP (Para 10.1 of Circular);
 - OR get the Appeal decided during the Scheme Period (Para 10.2 of Circular);
 - Where audit objections are there, Appellate Authority will not allow withdrawal of appeal but they shall dispose off such appeals expeditiously; (Para 10.4 of Circular);
- 2) Where excess set-off or refund under MVAT Act was adjusted against liability under CST Act/ Entry Tax Act and in such case when Appeal is pending under MVAT, CST, ET Act, then Withdraw all such Appeals, fully & un-conditionally; (Para 10.3 & Example 6 of Circular);
- 3) Acknowledgement of application for withdrawal of appeal shall be treated as sufficient proof of withdrawal of appeal; [Submit online application](#) for settlement of Arrears attaching Documents as mentioned in FAQ, User Manual & Instructions issued by Commr; (Para 12 of Circular);

Eligibility for settlement of arrears (Sec. 4 & 5 of Amnesty Scheme Act 2022)

1) Registered Persons as well as Un-Regd Persons, both are eligible;

‘Applicant’ means a person liable to pay OR a person who desires to avail benefit;
[Sec. 2(c) of MTS Amnesty Scheme Act 2022];

[For PT EC/RC, to obtain Regn for future liability- [Para 5.3 of Circular](#)]

2) Application for settlement can be made, for Arrears as per any statutory order, [whether disputed in appeal or not](#); ([Para 3.1 of Circular](#))

3) Applicants who had applied for Amnesty Scheme-1995, 1999, 2004 or has taken benefit of Settlement of Arrears in Dispute Act, 2016 or 2019, are also eligible; ([Para 5.4 of Circular](#))

4) All conditions stated in Sec. 11 or other provisions of this Act, shall be complied with;

5) Cases litigated by the State, also eligible for settlement: Where the Department has filed reference or an appeal before MST Tribunal or Courts, the demands disputed by the said Department including tax, interest, penalty or late fee may be considered for the settlement of arrears by the applicant and the application for settlement may be filed accordingly. [Neither refund or adjustment of such amount paid can be claimed by the Payer, Nor recovery of such waived amt will be done by the Dept. Refer Para 4 of Circular;](#)

[Quantification? Appeal withdrawal?? Appeal Order???](#)

Conditions for Application for Settlement of arrears

Section 12 of MTS Scheme Act 2022 deals with this aspect:

- 1) Make a separate application for each class of arrears, i.e. for Statutory order (in [Form I](#)), for Returns and for Vat Audit Report (in [Form IA](#)), under Relevant Act;
- 2) Make a separate application for each Financial Year (FY);
- 3) For Returns arrears settlement, make a separate appln for each of such return; However, for one FY, Single appln may be made;
- 4) Submit application to Designated Authority, in form & manner as prescribed by Commr; [Online filing Forms, Attaching Challan of Requisite payment & Docs stated in Appln form; \(e.g. Statutory Order, Ack of Appeal withdrawal appln, etc\)](#)
- 5) Submit Application, on or before the last date specified u/s 10(2)(a) i.e. 14 Oct 2022;
- 6) If payment of Requisite Amt is in time, then delay in Appln upto 30 days, may be condoned by the Designated authority, after recording the reasons;

Notice to cure defect in Application

(Commissioner's Instructions dt 30 Mar 2022 & Para 13.1 of Circular)

- If Appln is incorrect/ incomplete or there is a deficiency in payment of Requisite amt, **Defect Notice, Only Once**, to be issued by Designated Authority (DA) **within 15 days** of application, intimating the defect & payment to be made (Para-c);
- Applicant shall **cure the defect within 15 days** of getting defect notice & submit the relevant Docs/Paid Challan (Para-d);
- Payment after the date specified in this Act, is not permitted;
- Upon receipt of satisfactory compliance in response to defect notice, DA shall pass Settlement order as per Sec. 13 of this Act (Para-e);
- If Applicant fails to comply to Defect notice, DA shall pass appropriate order as per Sec. 13 of this Act (Para-h).

Order of Settlement (Sec. 13) & its Rectification; Review (Sec. 15)

- If payment of Requisite Amt (RA) & Appln is proper, then Order of Settlement (in Form III) shall be passed by Designate Authority (DA) & provide its copy to Applicant, **within 3 mths from the last date specified for payment of RA;**
- Applicant shall be discharged of his liability to the extent of waiver amt specified in Settlement Order; (Para 15 of Circular);
- If Deficiency is there in Payment/ Appln then DA shall give hearing opportunity to Applicant then may reject the appln, by an order in writing (in Form III);
- On such rejection, the withdrawn appeal shall be reinstated on Appln made in this behalf to the Appellate Authority, subject to **appeal provisions u/s 14 of this Act;**
- DA may on his own motion or on application (in Form V), by Applicant within 60 days of receipt of Settlement order, rectify any error apparent from the record, within 6 mths from the date of receipt of Settlement order; Applicant shall be given a (Notice in Form IV), reasonable opportunity of hearing before passing any adverse order;
- Commr may Review **any order**, on his own motion, after (giving Notice in Form VI) for hearing the Applicant, pass the best judgment order within 12 mths from the date of service of original order; (Para 19 of Circular);

Appeal against any Order passed under this Act (Sec. 14)

- Appeal shall lie to concerned DC (Adm), if Order is passed by his subordinate;
- Appeal shall lie to concerned JC (Adm), if Order is passed by DC;
- Appeal shall lie to concerned Addl Commr, if Order is passed by JC;
- Appeal shall be filed within 60 days of receipt of order;
No condonation of any delay;
- Appellate Authority, after making such further enquiry, pass just & proper order;
- Second Appeal, not provided for;
- **(Para 18 of Circular);**

Bar on reopening of settled cases under Relevant Act

Section 16 of MTS Scheme Act 2022:

- Order of settlement shall be conclusive as to settlement of arrears/ matter covered under that order;
- Such matter shall not be reopened in any proceeding of review/ revision/ any other proceedings under the Relevant Act;
- On account of specific observations made by CAG, any proceeding under the Relevant Act may be initiated;

Revocation of order of Settlement (Para 16 of Circular);

Section 17 of MTS Scheme Act 2022: Settlement order can be revoked, where it appears to the Designated Authority that benefit of settlement is obtained:

- I. by suppressing any material information or particulars
 - II. by furnishing any incorrect or false information
 - III. by suppression of material facts
 - IV. by concealment of any particulars in search & seizure proceedings
- Before passing revocation order, hearing opportunity must be given to the applicant (by issuing [Notice in Form VIII](#)) and reasons must be recorded in writing;
 - Limitation period for revocation is 2 years from the end of F.Y. in which order of settlement is served. i.e. say FY 2022-2023 + 2 Yrs = 31 Mar 2025;
 - Once the order of settlement is revoked, the proceeding (assessment, revision, etc) under Relevant Act stands revived/ reinstated immediately upon revocation;
 - Limitation for passing order under Relevant Act :- Order in such revived or reinstated proceeding must be passed within 2 years from the date of revocation order.
 - Original appeal under the Relevant Act shall be reinstated on application made to Appellate Authority;

No refund under Settlement Scheme (Para 17 of Circular);

Section 18 of MTS Scheme Act 2022:

- *Under no circumstances, the applicant shall be entitled to get the refund of any amount paid under this Act.*

- *Proviso: In case of Revocation/ Rejection of Settlement order, the amount paid by the applicant under this Act, shall be treated to have been paid under the Relevant Act.*

Power of Commissioner & Govt.

Section 19 & 20 of MTS Scheme Act 2022:

Commissioner's powers:

- To issue instructions & directions as deem fit, to Designated Authority for carrying out the purpose of this Act;
- To prescribe Forms & manner of its submission under this Act.

Government's powers:

- To do anything consistent with the provisions of this Act, which appears to it to be necessary or expedient **for the purpose of removing the difficulty in giving effect to the provisions of this Act**, by an order published in the *Official Gazette*, *within* one year from the date of commencement of this Act;
- Every such order made, shall be laid, as soon as may be, before each House of the State Legislature.

FAQ REGARDING FILING OF AMNESTY APPLICATION AND UPLOADING .TXT FILE ...

How to make payment of Requisite Amt for Amnesty Scheme 2022 under Relevant Act :

- To make online payment for Amnesty scheme-2022, visit to mahagst portal <https://mahagst.gov.in>;
- At home page, a payment tile is given by clicking on the same, option of “e payment for amnesty” will be seen;
- By clicking the same, payments can be made under amnesty scheme-2022. There are various options for payment. Tax payer can make payments by using valid TIN, PAN or UIN as applicable;
- Refer User Manual for Amnesty Scheme 2022 provided at: <https://mahagst.gov.in>;
- **Download Offline Excel Template Form-I & Form-IA** provided under “Electronic forms” under “download segment” of mahagst Portal: <https://www.mahagst.gov.in> :
 - Form-I** : Amnesty application against Arrears of any Statutory Order;
 - Form-IA** : Amnesty application against Arrears of Return/ VAR Form-704;
- **In Form-I and in Form-IA**, detailed Instructions are given on the First sheet of both Forms; Refer it & fill the application form correctly; Mandatory fields shall be filled appropriately;

FAQ REGARDING FILING OF AMNESTY APPLICATION AND UPLOADING .TXT FILE ...

➤ Steps for filing online Application for Amnesty are as under:

(1) Downloading Application for Settlement (Amnesty) in Form-I and Form-IA Template.

(2) Filling Template as per application type i.e. Form-I or Form-IA as per the class of arrears.

(3) Validation of the application Form; Creation of .txt file of Amnesty template which was filled and validated by user.

(4) Access mahagst portal by using log-in credentials. The URL is <https://mahagst.gov.in>.

(5) Uploading of Form-I/Form-IA .txt file created earlier.

(6) Uploading of Application related documents; (7) Submission of application;

(8) Acknowledgement of Amnesty Application

➤ Profile creation for Active TIN/ Inactive TIN/ **Non-TIN holder: Refer** procedure published on mahagst portal in “Manuals & Procedure” section.

FAQ REGARDING FILING OF AMNESTY APPLICATION AND UPLOADING .TXT FILE ...

➤ details of the path for uploading of .txt file on mahagst portal?

- For filing amnesty application online, click on Tile “Amnesty Scheme 2022” after logging in your profile in SAP portal; the Amnesty Form page will open; Click on the upload form button; In this Amnesty Form page following selection points are provided:
 - (1) Select “Act”-from drop down, for which amnesty application is to be filed.
 - (2) Select Financial year (Period) for which application is to be made- Select the period from drop down is provided.
 - (3) Select the correct type of application Form that you have to apply for Amnesty (Form-I or Form-IA) from given drop down.
 - (4) In attachment section click “Browse” button to select the .Txt file of application.
- After browsing and attaching required .Txt file; the attachment success message will show. Click on “Upload File” Button. The attached form .Txt file will be uploaded;

FAQ REGARDING FILING OF AMNESTY APPLICATION AND UPLOADING .TXT FILE ...

- **Procedure to upload relevant documents online:** Various documents such as Statutory Orders, **Self certified RA paid challans**, Ack of appln of Appeal withdrawal, Appeal withdrawal order, Returns, Form 704, etc. needs to be uploaded while making application;
- After successful uploading of .txt file, by clicking “Upload file” button, the success message will be shown, Close the message; Then document upload page will open. For document uploading, get the documents ready on your computer. Only **PDF format documents of the size 2mb each can be uploaded**. Maxm 10 documents are allowed to be uploaded. Click on “Browse” button in Upload forms page. Select the proper document and double click on it. The document will get attached & success message will be seen. Only one document gets attached at one time. Now close the message and click “Upload File” button;
- **After completion of document uploading Click on “Submit” button; Unless you click on submit button your amnesty application could not get filed; If “Submit Button” is not clicked then your amnesty application will remain in “Draft status” and shall not be considered as Successful application;**
- Documents uploaded success message will be seen. Close the message. The uploaded document will be seen on this page.
- Ack will be communicated at email provided & msg at Mobile # provided.

Certain Imp Issues for Amnesty

1. **Recovery Section 32A of MVAT Act inserted from 1 May 2013**, which provided for payment of amt accepted by dealer from amt recommended by Auditor;
2. Vat Auditor's recommendation in Audit Report Form 704: **Statement of submission by Dealer**, about acceptance (of recommendation) or Not, alongwith Form 704, **inserted by Notification dt 23 Aug 2013**; So for periods upto YE 31 Mar 2012, how to determine Disputed & Un-disputed Tax as required u/s 2(q)(v) of MST Scheme Act, 2022?
3. **No self determination in case of:** Penalty leviable u/s 61(2) for No Audit/ Delayed Audit; Pending CST declarations;

Note: Assessment Time barring for FY 2017-18:

(i) u/s 23(2) where returns are filed within time; 4 yrs i.e. 31 March 2022;

(ii) u/s 23(3) where returns are filed late; 5 yrs i.e. 31 March 2023;

5. Department will endeavour to complete pending proceedings; Dealers are requested to take benefit of Settlement Scheme; (Para 21 of Circular);
6. Any Particular issue/ problem/ clarification needed in a case, write to Nodal Officer/ JC/ Commr (Para 22 of Circular);

Questions



21 Apr 2022

CA Deepak Thakkar, Mumbai. Mah. India. Email id:
deepak@rndca.com

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